

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION NO.4326 OF 2016

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the Judge, Family Court, Secunderabad in I.A. No.5 of 2015 in FCOP No.264 of 2012 dated 15.06.2016.

The revision petitioner is the respondent in I.A. No.5 of 2015, and the petitioner in FCOP No.264 of 2012. FCOP No.264 of 2012 was filed by the petitioner herein seeking dissolution of marriage with the respondent. An application, under Section 24 of the Hindu Marriage Act, 1955, was filed by the respondent herein seeking Rs.10,000/- per month as her interim maintenance and Rs.10,000/- per month for both her children, from the date of filing the divorce petition by the respondent till the disposal of the main petition.

By the order under revision, the Court below directed the revision petitioner to pay interim maintenance of Rs.5,000/- per month to the respondent and to his two children, apart from the amount of Rs.5,000/- per month ordered by the Family Court, Warangal, in M.C. No.28 of 2012, from the date of the petition till the disposal of the main case. The petitioner herein was directed to pay the arrears within two months from the date of the order, and to pay future interim maintenance by the 10th of every month from July, 2016 onwards, to the respondent's bank account through online banking service. The Court below disbelieved the petitioner's contention that the respondent herein was having

sufficient source of income to maintain herself and her children; the petitioner's daughter was studying in 8th class, and his son in 6th class; while he was paying maintenance, as ordered by the Court in M.C. No.20 of 2012, the said amount was only for Rs.5,000/-; and, considering the fact that the respondent herein had the responsibility to take care of both the children, an additional sum of Rs.5,000/- should be paid towards maintenance.

Sri J.U.M.V. Prasad, Learned Counsel for the petitioner, would submit that the respondent herein runs a bakery in Warangal and has adequate source of income. He would refer to certain documents in support of his submission that the respondent herein had received orders for supply of cakes and other bakery items.

The Court below has, in the order under revision, held that there was no evidence on record to hold that the petitioner was having sufficient source of income. In a city like Warangal, monthly maintenance of Rs.10,000/- for a single mother and her two children studying in 8th and 6th class respectively, cannot be said to either suffer from a patent illegality or to be an order which has caused substantial injustice to the revision petitioner herein who, as the father of the two children, is obligated to provide for their basic needs and education. The jurisdiction which this Court exercises, under Article 227 of the Constitution of India, is supervisory and not appellate, and this Court would not be justified in re-appreciating the evidence on record which only an appellate Court can do. Save patent illegality in the order under revision, or substantial injustice being caused to the petitioner

thereby, no interference is called for in proceedings under Article 227 of the Constitution of India. The order passed by the Court below does not suffer from any such infirmity.

I see no reason, therefore, to interfere with the order passed by the Court below in revision proceedings under Article 227 of the Constitution of India. The Civil Revision Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

Date: 09.09.2016.

MRKR

RAMESH RANGANATHAN, ACJ

